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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS CIVIL APPLICATION NO.110 OF 2006

Shweta @ Indian Kishor Mahale Applicant
versus
Kishore Dnyaneshwar Mahale Respondent

Mr.S.S.Deshkukh for applicant.
Mr.A.R.S.Baxi for respondent.

CORAM : A.S.OKA, J.

DATE : 05th April 2007

PC :

1. Heard advocate for the applicant and the advocate for the respondent. The applicant is the wife and the respondent is the husband. The respondent filed a petition for restitution of the conjugal rights under section 9 of the Hindu Marriage Act in the Court of Civil Judge, Senior Division, at Thane. The prayer in this application is for transfer of the said matrimonial petition to the Court of learned Civil Judge, Senior Division at Ahamednagar on the ground that the applicant is at present residing at Ahamednagar. The case made out in the application is that it is difficult for the

applicant to undertake travelling from Ahamednagar to Thane as distance between two places is about 250 kms..

2. The application is opposed by the respondent by filing an affidavit in reply. To the affidavit in reply, a report of Bailiff has been annexed which shows that the notice of the petition was served to the applicant at Ambarnath.

3. In paragraph no.15 of the application the applicant has stated thus :-

> "15. As the education and surrounding environment for the children was not proper at Ahmednagar the father of Applicant shifted both the children to Ambernath and they are studying in PMM Innerwheel High School at Ambernath. The entire expense of the classes and other daily requirements is borne by the father of the applicant out of his pension."

4. After having considered the submissions made by the learned advocates appearing for the parties I find that no case is made out for transfer of the case. As narrated above, service of notice of the petition filed by the respondent has been effected at Ambarnath in District Thane.

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Moreover, both the children of the applicant who are in her custody are studying in a school at Ambarnath. Considering these aspects no case is made out for transfer. However, the petition pending in the Court at Thane deserves to be disposed of expeditiously.

5. Hence, the application is rejected. However, the Trial Court will decide the Hindu Marriage Petition No.261 of 2006 as expeditiously as possible and preferably on or before 31st December 2007.

(A.S.OKA, J.)